

REMARKS

The present application has been carefully studied and amended in view of the outstanding Office Action dated June 17, 2003, and reconsideration of that Action is requested in view of the following comments.

Claims 4, 5 and 9 have been amended to recite - - menthol - - instead of "methanol". As amended these claims are believed to be in proper form.

Applicant respectfully transverses the provisional rejection of claims 1-9 under the judicially created doctrine of obviousness-type double patenting. Unlike the claims of application serial numbers 09/839,669 and 10/364,168, claims 1-9 of the present application include the application of a flavorant delivering material in solid or liquid form loaded onto the micro-porous fibers with open or semi-open cavities therein. As such the flavorant delivering material is released into the smoke stream so as to impart a flavor to the tobacco smoke. In the claims of the above mentioned applications, the materials loaded into the cavities of the fibers comprise adsorbent or absorbent particles or liquids. These particles or liquids function to adsorb or absorb one or more smoke constituents from the tobacco smoke as opposed to releasing a substance into the smoke stream. Although Keritsis US 5,133,367 discloses menthol as a flavorant for tobacco smoke, Keritsis does not address the fundamental difference between the release of flavorant of the present invention and the adsorbent or absorbent particles or liquids disclosed and claimed in the above noted applications which function on a different theory of adsorbing or absorbing rather than releasing a substance into the tobacco smoke stream. Accordingly, it is respectfully requested that the double patenting rejection be withdrawn.

Applicant respectfully submits that claims 1 and 7 are not anticipated by Woods US

4,729,392. The Woods' disclosure is significantly different in that the cigarette filter comprises a micro porous polypropylene sheet as oppose to the individual fibers of the present invention. As noted in Example 1 of Woods, the filters are made from strips of such sheet material having a width equal to the desired filter length by folding the strips back and forth until a cylinder of desired firmness is produced. The Examiner's attention is also directed to remaining Examples 2-5 as well as claims 1 and 2 of Woods wherein the filter is fabricated from micro porous polymer sheet material.

Applicant further submits that claims 1-9 define an invention which is not disclosed or rendered obvious by the prior art. Specifically, the invention of claims 1-9 is not rendered obvious by the combination of Rohrbach et al US 5,744,236 ("Rohrbach") in view of Woods and Keritsis, both identified above. Applicant relies on the same arguments as discussed in the Appeal Brief of record in the prosecution of this application. The single issue addressed in the Appeal Brief is whether or not claims 1-9 are patentable or unpatentable under 35 USC §103 over Rohrbach in view of Woods and Keritsis.

New claims 10-15 are also presented in this amendment. These claims parallel the allowed claims of application serial number 09/839,669, but they define the flavorant delivery material as opposed to the adsorbent or absorbent particles or liquids of the '669 application. These claims are believed to be directed to allowable subject matter for the same reasons as the corresponding claims in the '669 application.

Accordingly, for the reasons addressed above it is believed that the present application is in condition for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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